

REMARKS

Claims 1-22 and 38-47 are currently pending in this application. Claims 1-22 are currently under examination. Claims 1 and 13 are being amended herein. Applicant respectfully requests that the rejections be reconsidered in light of the amendments made herein and the comments offered herein.

Claims 1-6, 8-11, 13-17, and 19-21 are rejected under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Windisch et al., U.S. Patent No. 6,352,567. Applicant respectfully traverses this rejection.

Although Applicant does not necessarily agree with this rejection, Applicant has amended claims 1 and 13 to specify that there is little or no penetration of the binder below the major surface. Windisch discloses an article that has the binder layer “at least partially filling spaces between fibers of the nonwoven” (Windisch, column 2, lines 34-43; column 3, lines 1-9; column 3, lines 15-17; column 6, lines 61-63; column 6, line 66 – column 7, line 2; and others). Therefore, Windisch does not anticipate claims 1 and 13, or dependent claims 2-6, 8-11, 14-17, and 19-21.

With respect to the rejection of claims 1-6, 8-11, 13-17, and 19-21 as obvious over Windisch, Applicant also asserts that Windisch fails to suggest to one of skill in the art that there should be little or no penetration of the binder below the major surface. Such an article would be directly opposite to the teachings of Windisch, and therefore would not be suggested thereby. It is well established that there can be no motivation to modify the teaching of a reference when the reference teaches against such modification; and there can be no motivation to modify a reference when the modification would alter the basic structure of the reference. Therefore, Windisch fails to render claims 1 and 13; and therefore also claims 2-6, 8-11, 14-17, and 19-21 obvious.

Applicant also notes that there may be other reasons why claims 1 and 13 are neither anticipated nor obvious over Windisch, and independent reasons why claims 2-6, 8-11, 14-17, and 19-21 are neither anticipated nor obvious over Windisch; Applicant does not concede those arguments by not presenting them herein.

Claims 12 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Windisch. Applicant respectfully traverses this rejection.

Applicant reiterates the remarks offered above with respect to Windisch, and also asserts that there may be other reasons why dependent claims 12 and 22 are not obvious over Windisch; Applicant does not concede any such arguments by not raising them herein.

In light of the comments offered above with respect to claims 1 and 13, Applicant respectfully requests that this rejection be withdrawn.

Claims 7 and 18 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Windisch in view of JP 79007996. Applicant respectfully traverses this rejection.

Applicant reiterates the remarks offered above with respect to Windisch, and asserts that JP 79007996 fails to remedy the shortcomings thereof. Applicant also asserts that there may be other reasons why dependent claims 7 and 18 are not obvious over Windisch in view of JP 79007996; Applicant does not concede any such arguments by not raising them herein.

In light of the comments offered above with respect to claims 1 and 13, Applicant respectfully requests that this rejection be withdrawn.

Conclusion

Applicant also notes that there may be other arguments which were not presented herein, and Applicant does not concede those arguments by not having presented them herein. Applicant also does not necessarily agree with the correctness of statements made in the Office Action that were not rebutted herein.

In view of the foregoing amendments, Applicants respectfully request reconsideration and allowance of the claims as all rejections have been overcome. Early notice of allowability is kindly requested.

The Examiner is respectfully requested to contact the undersigned by telephone at 651.259.6702 or by E-mail at anelson@cnwiplaw.com with any questions or comments.

Please grant any extension of time, if necessary for entry of this paper, and charge any fee due for such extension or any other fee required in connection with this paper to Deposit Account No. 50-3964.

Respectfully submitted,

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